

September 3, 2015

NAME: State of Hawaii, Department of Transportation, Highways
Division, Maui District Office / Glen Fevella

INSPECTION: C-U/S, 06-01-15

SAMPLE NO.: None

SUSPECTED VIOLATION: Cautionary statement

ENFORCEMENT ACTION: Warning Notice, 09-03-15

RECOMMENDED EPA
ENFORCEMENT ACTION: None

COMMENT: Roundup Promax Herbicide
Complaint No. MA-15-12

September 3, 2015

NAME: State of Hawaii, Department of Transportation, Highways
Division, Maui District Office / Glen Fevella

INSPECTION: C-U/S, 06-01-15

SAMPLE NO.: None

SUSPECTED VIOLATION: Cautionary statement, no non-ionic surfactant used

ENFORCEMENT ACTION: Warning Notice, 09-03-15

RECOMMENDED EPA
ENFORCEMENT ACTION: None

COMMENT: Element 3A Specialty Herbicide
Complaint No. MA-15-12

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
Pesticides Branch
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9401 Fax: (808) 973-9418

September 3, 2015

WARNING NOTICE

Certified Mail No. 7012 0470 0002 3965 6688
Return Receipt Requested

Mr. Ferdinand Cajigal
Hawaii Department of Transportation
Highways Division
Maui District Office
650 Palapala Dr.
Kahului, HI 96732

Dear Mr. Cajigal:

On May 22, 2015, Glen Fevella, an employee of the Hawaii Department of Transportation, Highways Division, Maui District Office, used the pesticides ROUNDUP PROMAX HERBICIDE (EPA Reg. No. 524-579) and ELEMENT 3A SPECIALTY HERBICIDE (EPA Reg. No. 62719-37) in a manner inconsistent with their label directions and in violation of Section 149A-31(1) of the Hawaii Pesticides Law. The following are the factual circumstances of the violations:

1. On May 22, 2015, Glen Fevella applied a tank mix dilution of ROUNDUP PROMAX HERBICIDE and ELEMENT 3A SPECIALTY HERBICIDE to guardrails and sign posts along Mokulele and Piilani Highway in Kihei, Hawaii. One of the application sites was adjacent to Kamalii Elementary School located at 180 Alanui Ke'ali'i Drive in Kihei, Hawaii. The area adjacent to the guardrails was being used for parking by visitors to Kamalii Elementary School where a school event was taking place this day.
2. After Glen Fevella and the spray crew left the area of application, no measures were taken to keep people or animals off the treated areas until the spray solutions had dried.
3. The ROUNDUP PROMAX HERBICIDE label states: "**DIRECTIONS FOR USE** . . . Non-Agricultural Use Requirements . . . Keep people and pets off treated areas until spray solution has dried."



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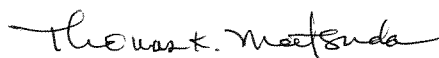
4. The ELEMENT 3A SPECIALTY HERBICIDE label states: "**DIRECTIONS FOR USE . . . Non-Agricultural Use Requirements . . . Entry Restrictions for Non-WPS Uses:** For applications to non-cropland areas, do not allow entry into areas until sprays have dried, unless applicator and other handler PPE is worn."
5. On May 22, 2015 Glen Fevella mixed 3.34 gallons of ROUNDUP PROMAX HERBICIDE and 2.8 gallons of ELEMENT 3A SPECIALTY HERBICIDE into 300 gallons of water. No agriculturally labeled non-ionic surfactant was used in the tank mix.
6. The ELEMENT 3A SPECIALTY HERBICIDE label states: "**Directions for Use . . . Application Methods . . .** Use an agriculturally labeled non-ionic surfactant for all foliar applications. . . ."

This warning notice is issued to you pursuant to Section 149A-41(a) of the Hawaii Pesticides Law. You should ascertain that any further use of the pesticides ROUNDUP PROMAX HERBICIDE and ELEMENT 3A SPECIALTY HERBICIDE is in full compliance with the provisions of the Hawaii Pesticides Law.

Any further violation of the provisions of the Hawaii Pesticides Law may result in administrative action (monetary fine), pursuant to Section 149A-41 of the Hawaii Pesticides Law. Any violation by persons who knowingly violate any provision of the Hawaii Pesticides Law may result in criminal action pursuant to Section 149A-41 of the Hawaii Pesticides Law.

If you have any questions, please call Victoria Matsumura at (808) 973-9405.

Sincerely,


THOMAS K. MATSUDA
Pesticides Program Manager

TKM:vm
[K:SOHDOTHDMD]

c: U. S. EPA, Region IX
Ray McCormick, Highways Administration